

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

MAILED

AUG 29 2005

U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HANG ZHANG,
KSAI LIANG and DAHAI LI

Application 09/496,600

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on August 12, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matters requiring attention prior to docketing are identified below:

A review of the file indicates that appellants filed an Appeal Brief on January 31, 2005 using the format set forth in 37 CFR § 41.37(c). However, the Appeal Brief is defective because it does not include the "Evidence appendix," as set forth

in 37 CFR § 41.37(c)(1)(ix) and the "Related proceedings appendix," as set forth in 37 CFR § 41.37(c)(1)(x).

A supplemental brief that is in compliance with § 41.37(c) is required. For more information, see the United States Patent and Trademark website www.uspto.gov, and, in particular, the web page entitled "More Information on the Rules of Practice Before the Board of Patent Appeals and Interferences, Final Rule" located at the following URL:

www.uspto.gov/web/offices/dcom/bpai/fr2004/moreinfo.html

In addition, while the "STATUS OF CLAIMS" section appearing on page 2 of the Appeal Brief filed January 31, 2005 states that "[c]laims 1-44 are pending in this application," and page 2 of the Examiner's Answer filed May 5, 2005, states that "[t]he statement of the status of the claims contained in the brief is correct," the examiner's sole rejection appearing on page 4 of the Answer includes only claims 1-40 as being rejected under 35 U.S.C. § 103(a). A determination as to the status of claims 41-44 is required.

Finally, according to page 4 of the Examiner's Answer mailed May 5, 2005, "[t]he copy of the appealed claims contained in the Appendix to the brief is correct." However, it is noted

that the language of claims 1, 11, 17, 24 and 31 in the Appendix differs from its last amended version. Correction is required.

Accordingly, it is

ORDERED that the application is returned to the Examiner:

1) to hold the Appeal Brief filed January 31, 2005 defective;

2) for notification to appellants to file a supplemental Appeal Brief in compliance with 37 CFR § 41.37;

3) for consideration of the supplemental Appeal Brief;

4) for a determination regarding the status of claims 41 through 44;

5) for notification to appellants to submit a new Appendix to the Appeal Brief which contains the corrected claims, or for the examiner to issue a revised Examiner's Answer which contains a correct copy of claims 1, 11, 17, 24 and 31;

6) for vacating the Examiner's Answer mailed May 5, 2005, and issuing a revised Examiner's Answer in compliance with the new rules which went into effect on September 13, 2004; and

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7) for such further action as may be appropriate.

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